



MAY - 7 2015

MEMORANDUM FOR PATRICIA W. SILVEY
Deputy Assistant Secretary for Operations
Mine Safety and Health

THROUGH:

[REDACTED]
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Administrator for
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FROM:

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SUBJECT:

MSHA Office of Accountability Review
Metal and Nonmetal Southeastern District,
Lexington, Kentucky Field Office and [REDACTED]
[REDACTED]

Introduction

This memorandum summarizes the Office of Accountability's review of the subject district office, field office, and mine. The review included MSHA field activities; level of enforcement; conditions and practices at the mine; Field Accompanied Reviews (FARs); Office Reviews (ORs); and MSHA supervisory and managerial oversight. The accountability review also included evaluations to determine if there were any deficiencies in areas commonly identified during Agency internal reviews of MSHA's actions following past mine disasters.

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Overview

The review of the Southeastern District and Lexington, Kentucky Field Office was conducted by Accountability Supervisor Ted Smith and Accountability Specialist Troy Davis from [REDACTED]. The review focused on inspection activities during FY 2014 (October 2013 through September 2014) and specifically involved the review of two regular health and safety inspections (E01 event numbers [REDACTED]) conducted by the Lexington Field Office of the [REDACTED]. The Lexington Field Office was selected in part because the Violations per Inspection Hour (VPIH) was 0.19 compared to the National average VPIH 0.23 for MNM during FY 2014 and the Office of Accountability had not previously reviewed the Field Office. The [REDACTED] was selected based on the mine's S&S rate of 33 percent compared to the National average of 26 percent for MNM during FY 2014. The review team conducted a mine visit focusing on general mine conditions; whether conditions at the mine are commensurate with enforcement levels documented in the inspection reports reviewed; and to observe company work practices at the mine site.

Mine Visit [REDACTED]

This underground limestone mine is located in [REDACTED] and employs approximately [REDACTED] persons producing [REDACTED] annually. [REDACTED] is mined and transported to the surface via conveyor belt systems. The [REDACTED] is then processed and made ready for commerce.

The Review Team accompanied the Inspector, Field Office Supervisor, Assistant District Manager, and District Health and Safety Specialist, to the mine on [REDACTED] for a regular safety and health inspection (E01). The underground portion of the mine was not actively producing because a roof fall had damaged the belt conveyor system. Contractors and miners were rehabilitating the roof fall area in order to resume production. The Review Team observed the inspection of the mine map, portions of the examination records, mobile equipment consisting of two front-end loaders, a Caterpillar 988 and a Volvo L150E; and one Komastu PC300 equipped with a rotary drum cutter used for scaling. Four employees of [REDACTED] working on the property were inspected for training and associated equipment. The team observed the primary crusher and adjoining conveyor belts although they were not in operation due to the rehabilitation work being performed. The team traveled the primary escapeway in its entirety and portions of the secondary escapeway observing signage and conditions in the travelways.

The ventilation system for the mine provided adequate ventilation in all areas traveled during this mine visit. The inspector performed air quality readings in all active work areas and headings inspected. The readings indicated air quality was compliant. The

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inspector also performed air volume measurements to verify information provided in the operator's ventilation plan. The inspector examined all three main fans on the surface.

The Review Team observed communications between the mine operator and MSHA personnel during the pre-inspection conference and observed discussions with miners and company officials regarding work practices and enforcement actions.

Review Results

The accountability review revealed positive findings in several areas, including the following:

1. Enforcement personnel conducted themselves in a professional and courteous manner at all times during the review and during the inspection.
2. Field Accompanied Reviews (FARs) and Office Reviews (ORs) for the Lexington Field Office were adequately documented.
3. Enforcement personnel used appropriate enforcement tools during the mine site visit.
4. Air Quality readings and locations taken in the mine were documented.
5. Staff and safety meetings were well documented and showed updates and reviews of MSHA initiatives and policy memoranda.

This accountability review of the Southeastern District and Lexington, Kentucky Field Office revealed no material weaknesses or systemic issues requiring corrective actions.

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Attachments

- A. Office of Accountability Checklist
- B. Citations/Orders issued during this review
 - 1. 57.14112(b)
- C. Examples of Citations Issued During Previous E01 Inspections
(No issues were identified during this review)
- D. District Corrective Action Plan
(No issues were identified during this review)

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Attachment A: Office of Accountability Checklist

1. Determine if complete and thorough E01 inspections are being conducted and /or if policy and procedures were properly followed.
Adequate Corrective Action Needed Comments Below

2. Determine if documentation for inspections is complete and thorough.
Adequate Corrective Action Needed Comments Below

3. Determine if citations and orders issued during previous inspections were properly evaluated for gravity, negligence, level of enforcement, number of persons affected, and supported by documentation.
Adequate Corrective Action Needed Comments Below

4. Evaluate inspector(s) examination of required records and postings for compliance with applicable standards.
Adequate Corrective Action Needed Comments Below

5. Evaluate the inspector(s) physical examination of the active working areas of the mine and inspection of all mining cycles.
Adequate Corrective Action Needed Comments Below
Mine was not producing at time of inspection

6. Evaluate the inspector(s) on-site contaminant assessment and documentation.
Adequate Corrective Action Needed Comments Below
No health samples were taken during this inspection.

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7. Evaluate inspector(s) examination of electrical equipment, transformer stations, and/or electrical circuits.

Adequate Corrective Action Needed Comments Below

8. Determine if adequate close-out conferences are being conducted at the end of each inspection.

Adequate Corrective Action Needed Comments Below

9. Determine if Possible Knowing/Willful (PKW) Forms are documented and processed according to agency policy and procedures.

Adequate Corrective Action Needed Comments Below

No PKW forms were reviewed during this accountability review.

10. Evaluate 103(i) spot inspection (E02) reports for the office/district being reviewed for compliance with agency policies and procedures, including compliance with time frames and separating E02 inspections from other events.

Adequate Corrective Action Needed Comments Below

No 103(i) mines are in the field office's jurisdiction

11. Determine if Hazard Complaint inspections/investigations are being conducted according to policy and procedures.

Adequate Corrective Action Needed Comments Below

12. Determine if supervisors are monitoring inspector time and activity to ensure proper use of time, including off-shift and weekend work, by all inspectors.

Adequate Corrective Action Needed Comments Below

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13. Are required Office Reviews (ORs) and supervisory follow-up reviews being conducted and documented according to agency policy and procedures?
(One E-01/Inspector/every six months/FY –minimum)

Adequate Corrective Action Needed Comments Below

14. Are Field Accompanied Reviews (FARs) and supervisory follow-up reviews being conducted and documented according to agency policy and procedures?
(one/inspector/year - minimum)

Adequate Corrective Action Needed Comments Below

15. Determine if a 104(d) tracking system is in place and being kept current at the office being reviewed.

Adequate Corrective Action Needed Comments Below

16. Determine if the Mine Files are legible, up to date, and reviewed by supervisors.

Adequate Corrective Action Needed Comments Below

Inspections scanned, disk filed for FOS and original inspection reports filed in the District office.

17. Determine if supervisors are visiting active mines.

Adequate Corrective Action Needed Comments Below

18. Review documentation of staff meetings/safety meetings to determine their effectiveness and relevance to current issues and the Agency's mission.

Adequate Corrective Action Needed Comments Below

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25. Evaluate the overall condition of the mine relative to the level of enforcement documented in previously completed inspections.

Adequate Corrective Action Needed Comments Below

26. Determine if inspectors have an understanding of when a violation of Section 103(a) for Advance Notice occurs and whether appropriate citations are issued for Advance Notice.

Adequate Corrective Action Needed Comments Below

27. Determine if the management resource tracking tool is being used to track resources regarding Special Investigations.

Adequate Corrective Action Needed Comments Below

SI not reviewed as part of this review

28. Determine if retraining of supervisors, inspectors, and specialists is being tracked.

Adequate Corrective Action Needed Comments Below

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Attachment B: Citations/Orders issued during this review

Mine Citation/Order U.S. Department of Labor
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Section I--Violation Data	
1. Date Mo Da Yr	2. Time (24 Hr. Clock) [REDACTED]
3. Citation/Order Number [REDACTED]	
4. Served To [REDACTED]	5. Operator [REDACTED]
6. Mine [REDACTED]	7. Mine ID [REDACTED] (Contractor)
8. Condition or Practice 8a. Written Notice (103g) <input type="checkbox"/>	

The shaft guard, on the #1 fan on the surface, was not securely in place. The guard had shifted forward, and was exposing the shaft to contact. Employees working in and around the area were exposed to the possibility of injury if they were accidentally to contact the moving machine parts. Employees seldom enter this area when the fan is running, and no foot traffic was seen making the chance of an accident unlikely. The area was barricaded off until the repairs were completed.

Standard 57.14112b was cited [REDACTED]

See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>			
9. Violation	A. Health Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 57.14112b

Section II--Inspector's Evaluation				
10. Gravity:				
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104a		13. Type of issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>				E. Citation/Order Number
				F. Dated Mo Da Yr
15. Area or Equipment				

18. Termination Due	A. Date Mo Da Yr	B. Time (24 Hr. Clock) [REDACTED]
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Section III--Termination Action	
17. Action to Terminate The guard was put back in place to cover the exposed shaft.	

18. Terminate	A. Date Mo Da Yr	B. Time (24 Hr. Clock) [REDACTED]
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Section IV--Automated System Data		
19. Type of Inspection (activity code) E01	20. Event Number [REDACTED]	21. Primary or Mill P
22. AR Name [REDACTED]		23. AR Number [REDACTED]

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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Attachment C: Examples of Citations Issued During Previous E01 Inspections
(No issues were identified during this review)

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Attachment D: District Corrective Action Plan
(No issues were identified during this review)